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CLEARINGHOUSE RULE 95-081

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The term “initial interconnection” in the first sentence of s. PSC 112.04 is undefined. That sentence should refer, instead, to “an interconnection with the transmission system of another electrical utility with which the utility has no interconnection.” This wording parallels the wording of s. PSC 112.03. The second sentence of s. PSC 112.04 should refer to “an interconnection with the transmission system of another electrical utility with which the utility has one or more interconnections.”

b. The second sentence of s. PSC 112.04 should be rewritten in the active voice, as follows: “Except as provided in s. PSC 112.05, an electrical utility may...without the commission’s prior approval.” Similarly, the last sentence of that section should be written in the active voice.

c. At the beginning of each paragraph of s. PSC 112.05 (1), the word “any” should be replaced by the word “a” or “an.”

d. The word “includes” in the second sentence of s. PSC 112.05 (1) (b) and the words “also includes” in the following sentence should both be replaced by the words “applies to.” [See also s. PSC 112.05 (1) (g).]

e. Section PSC 112.05 (1) (c) 1. does not appear to create any requirements relative to par. (c) that s. PSC 112.05 (1) (intro.) does not create for all of the paragraphs of that subsection. Paragraph (c) 1. should be omitted from the rule.

Since s. PSC 112.05 (1) (c) 2. pertains to a somewhat different subject than the rest of s. PSC 112.05 (1), it should be placed in a separate subsection of s. PSC 112.05. Note also that the cross-reference in subpar. c. should be to “subpar. a. or b.” Finally, in s. PSC 112.05 (1) (c) 2. (intro.), the word “Commission” should not be capitalized.

If s. PSC 112.05 (1) (c) 1. is omitted and s. PSC 112.05 (1) (c) 2. is renumbered, as suggested above, then s. PSC 112.05 (1) (c) 3. could be consolidated with s. PSC 112.05 (1) (c) (intro.). Regardless of whether it is consolidated, that subdivision should refer to “this paragraph,” rather than par. (c).

f. Section PSC 112.05 (3) (b) should refer to “par. (a)” rather than “pars. 1, 2, and 3.” Also, the phrase “in par. (a)” should be inserted in the first sentence after the word “limits.”

g. The first sentence of s. PSC 112.06 (1) (intro.) is explanatory, rather than substantive, and should be placed in a note. The second sentence of that provision should state: “An electric utility seeking authorization for a project from the commission under s. PSC 112.03, 112.04 or 112.05 shall submit an application to the commission, including all of the following:”.

4. Adequacy of References to Related Statutes, Rules and Forms

The phrase “under s. PSC 112.07” should be appended to the end of s. PSC 112.03. Similar cross-references should be inserted in ss. PSC 112.04 and 112.05, as appropriate.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The words “to make” should be inserted following the word “means” in s. PSC 112.02 (1).

b. The comma in s. PSC 112.03 should be omitted.

c. Do ss. PSC 112.03, 112.04 and 112.05 apply to land acquisition for the types of projects described? This may warrant clarification.

d. For greater clarity, the second clause of the last sentence of s. PSC 112.05 (2) should read: “the commission may require that the utility submit an application under s. PSC 112.06 for the approval of the project by the commission....”

e. Section PSC 112.06 (1) (d) refers to the cost of operation. Does this mean the cost of operating the facility that is being constructed or modified, the cost of operating the entire utility or some other cost? It appears that “cost of operation” may be industry jargon, which perhaps should be defined. The same problems relate to the quality and reliability of service, also referred to in that paragraph, although these terms may not need definition.

f. Which electric facilities does s. PSC 112.06 (1) (g) 3. refer to? [Note that the entire chapter applies to electric facilities.] Should this provision refer to electric generation, distribution and transmission facilities? Should it refer to electric facilities which may be expected to generate magnetic fields?

g. Should s. PSC 112.06 (1) (j) be expanded to refer to any other information requested by the commission or commission staff?

h. The words “this material” at the end of s. PSC 112.06 (2) should be replaced by the words “these special materials.”

i. Section PSC 112.07 is very short on process, dealing only briefly with the commission’s discretion on holding a hearing on an application. Additional information regarding the processing of applications should be presented here, including such information as public notice and comment periods on applications, approval, denial or conditional approval of applications, criteria for commission action and deadlines for commission action on applications.

7. Compliance With Permit Action Deadline Requirements

a. Section PSC 112.05 (1) (c) 2. c. should be rewritten as a requirement that the PSC take action to authorize a project or to require further approvals within 90 days and to specify that a project will be considered to be approved by default, except for s. 196.49 (3), Stats., if the PSC fails to take action prior to this deadline.

b. As previously noted, s. PSC 112.07 fails to specify a deadline for final Public Service Commission action on applications under s. PSC 112.06. This omission must be corrected. [See s. 227.116, Stats.]